

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13158, of Claudia Moore, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a modification of BZA Order No. 7539 to incorporate the basement into the first floor apartment use in an R-4 District at the premises 122 - 6th Street, N.E., (Square 839, Lot 48).

HEARING DATE: February 13, 1980

DECISION DATE: February 13, 1980 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located on the west side of 6th Street, between Constitution Avenue and A Street, in an R-4 zone district at premises known as 122 - 6th Street, N.E.
2. The lot is approximately 1,771 square feet in area, and is improved with a three story and basement brick structure which adjoins existing buildings on both sides.
3. At the rear of the premises are two parking spaces with access provided via a twenty foot public alley.
4. The property has been used as a three unit structure since 1964 pursuant to this Board's Order No. 7539, dated January 6, 1964.
5. On January 24, 1978, this Board approved a request to permit a fourth unit in the basement of the subject structure, pursuant to Order No. 12505. This Order was appealed to the District of Columbia Court of Appeals by the Capitol Hill Restoration Society.
6. During the interim period between the issuance of this Board's Order and the decision of the court, the applicant proceeded to convert the basement into a habitable dwelling unit.
7. In February of 1979, the court entered an opinion reversing the Board's Order 12505. Consequently, on May 4, 1979, the Board entered an Order vacating its previous Order and denying the application. This resulted in the use of the building being limited to that of a three unit structure rather than four.

8. The applicant hereby seeks to have the basement area incorporated into the first floor unit.

9. Advisory Neighborhood Commission - 6B by Resolution dated February 11, 1980, voted to support the application providing allowances are made for a periodic inspection of the premises to insure that the basement is not being used as a separate living unit.

10. The Capitol Hill Restoration Society, by report dated February 10, 1980, opposed the application provided a variance is required. The Society felt that no variance is needed to simply incorporate the basement into the living space of the unit on the first floor.

11. The Board reviewed the issues of both the ANC and the Capitol Hill Restoration Society thoroughly. The Board finds the request of the ANC to be a reasonable one and will so condition the granting of the application. The Board, in its conclusions of law, determines that no variance relief is required.

12. There was no opposition to the granting of this application.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing Findings and Fact and the evidence of record, the Board concludes that the applicant's request does not require variance relief. The Board concludes that the applicant is not seeking to increase the number of units, but rather to simply incorporate a basement that has already been renovated into the living space of the first floor unit. The Board is of the opinion that no prior Order of this Board or the Court of Appeals prohibits the applicant's use of the basement as a part of the first floor unit.

The Board further concludes that such modification is appropriate and within the jurisdiction of this Board under its previous Order No. 7539.

Accordingly, the Board hereby approves the applicant's request to incorporate the basement into the living space of the first floor unit, subject to the following CONDITIONS:

1. There shall be a maximum of three units on the premises.
2. Upon reasonable request by the Zoning Administrator, the owner shall make available for inspection the basement and first floor, to assure that the basement is not being operated as a separate unit.

VOTE: 4-0 (William F. McIntosh, Walter B. Lewis, Connie Fortune and Leonard L. McCants to GRANT; Charles R. Norris not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 5 MAY 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.